

Application No. 09/663,269
Response to August 26, 2004, Action

Attorney's Docket No. 0119-004

REMARKS

Claims 1-3, 6, 7, 9-14, 17, 18, and 20-22 are pending. Claims 1 and 12 are independent.

Most of the pending claims stand rejected for obviousness over a combination of previously cited U.S. Patent No. 6,249,682 to Kubo et al. ("Kubo") and a new document, U.S. Patent No. 5,564,074 to Juntti ("Juntti"). Claims 3 and 14 stand rejected for obviousness over the Kubo and Juntti combination in further combination with previously cited U.S. Patent No. 6,385,462 to Baum et al. ("Baum").

The rejections, Kubo, and Juntti were discussed in a telephone interview between the Examiner and the undersigned attorney on November 1, 2004. The Examiner's willingness to discuss the final Action and his courtesy during the interview are gratefully acknowledged by the undersigned.

As discussed during the interview, the rejections should be reconsidered and withdrawn because Kubo and Juntti do not meet the requirements of a *prima facie* case of obviousness at least in that Kubo and Juntti do not teach all of the features recited in Applicant's claims and in that Kubo and Juntti do not include or suggest a motivation for their combination.

According to the claims, in pertinent part, a difference between a quality, e.g., a SIR, of a received signal and a reference is determined, and if the difference is determined not to be substantially zero, the energy at which the transmit power control (TPC) command is transmitted is increased, whether the received signal quality is above or below the reference. The final Action admits that Kubo does not describe such operation and looks to Juntti for this.

As discussed with the Examiner, Juntti describes measuring the level of a received signal, comparing the received level to a stored reference SREF, and adjusting the level of a transmitted signal accordingly. See Juntti at col. 4, ll. 13-20. Adjusting the transmitted level accordingly may be presumed to mean that the transmit level is increased when the received level is less than SREF and decreased when the received level is greater than SREF.

Also as discussed with the Examiner and as should be apparent, Juntti's kind of operation is different from Applicant's, which requires the energy at which a TPC

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command is transmitted to be increased whether the received signal quality is above or below a reference. (This discussion has set aside other differences, e.g., that Juntti does not even disclose TPC commands.) Accordingly, neither Kubo nor Juntti describes all of the features required by Applicant's claims.

Moreover, as discussed during the interview, Kubo and Juntti do not include or suggest any motivation for an artisan to combine them. In fact, the opposite is true: Juntti teaches away from a combination with Kubo.

As pointed out in the Action, Kubo describes a communication system that uses TPC commands. Kubo is not concerned with controlling transmit power *per se*, but instead Kubo tracks a change in the TPC commands received to estimate speed. Juntti describes a system that does not use TPC commands at all; instead, Juntti simply compares a received power level to a pre-stored reference. At col. 1, l. 58 - col. 2, l. 3 and col. 4, ll. 26-30, Juntti mentions TPC systems but only negatively. Juntti expressly states that its system has the advantages of a TPC system without the disadvantages. It may be difficult to imagine a clearer teaching away from a combination with a TPC system. Accordingly, an artisan would have had no motivation to combine Kubo and Juntti as suggested by the Action.

In light of these Remarks, it is respectfully requested that all of the obviousness rejections should be reconsidered and withdrawn and that the pending claims be allowed. An early Notice to this effect is respectfully solicited. If the Examiner has any questions, the undersigned attorney may be telephoned at the number given below. The Examiner may note that a Change of Correspondence Address and a Power of Attorney to Prosecute are filed on the same day as this Request.

Respectfully submitted,



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